

**RECEIVED
CENTRAL FAX CENTER**

DEC 19 2003

OFFICIAL

Docket No. 25401-4

CERTIFICATE OF FACSIMILE

I hereby certify that this paper is being transmitted via facsimile to Mail Stop Non-Fee Amendment; Commissioner for Patents; P.O. Box 1450; Alexandria, VA at facsimile number 703-305-3014 on December 19, 2003.

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Sabine Flicker et al : Paper No.:
Serial No.: 10/027,725 : Group Art Unit: 1644
Filing Date: December 21, 2001 : Examiner: P.N. Huyuh
For: Allergen Specific IgE-Fabs and Use Thereof

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Official Action dated November 19, 2003, the Examiner required restriction under 35 U.S.C. §121 between 15 asserted inventions. According to the Examiner:

Groups 1-3 are drawn to Group 2 allergen specific human IgE Fab having a specific amino acid sequence of SEQ ID NO: 7, 8 and 9, respectively, and the related encoding nucleic acid sequence, light chain amino acid sequence and encoding nucleic acid sequence, diagnostic kit and vaccine.

Groups 4-6 are drawn to methods for passive immunotherapy employing SEQ ID NO: 7, 8 and 9, respectively.

Groups 7-9 are drawn to the methods of claim 22 employing SEQ ID NO: 7, 8 and 9, respectively.

Groups 10-12 are drawn to the methods of claim 23 employing SEQ ID NO: 7, 8 and 9, respectively.

U.S. Application Serial No. 10/027,725
Response dated December 19, 2003
In Response to Official Action dated November 19, 2003

Finally, Groups 13-15 are drawn to the methods of claim 24 employing SEQ ID NO: 7, 8 and 9, respectively.

The Examiner indicated that where Applicants elect claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Further, the Examiner asserted that there are three clones, 60, 94 and 100, of allergen specific human IgE Fab and asked for clarification of the corresponding heavy chain amino acid sequence and encoding nucleic acid sequence and light chain amino acid sequence and encoding nucleic acid sequence.

Applicants hereby elect the sequences directed to clone 94 and therefore the Group 2 allergen specific human IgE Fab having the specific amino acid sequence of SEQ ID NO: 7 (heavy chain) encoded by the nucleic acid sequence of SEQ ID NO: 1, the specific light chain amino acid sequence of SEQ ID NO: 10 encoded by the nucleic acid sequence of SEQ ID NO: 4 or an essentially homologous variant thereof, and the corresponding diagnostic kit and vaccine. This elected group corresponds with that set forth in Group 1 in the Official Action except that the amino acid SEQ ID NO: 7 (heavy chain) was asserted by the Examiner as encoded by the nucleic acid sequence of SEQ ID NO: 2. However, the amino acid sequence of SEQ ID NO: 7 (heavy chain) is encoded by the nucleic acid sequence of SEQ ID NO: 1.

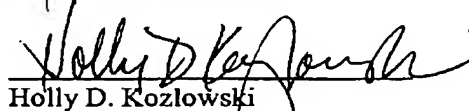
This election is made with traverse on the basis that it would not be unduly burdensome for the subject matter of each of the clones 60, 94 and 100 to be examined in the same application. Accordingly, reconsideration of the restriction requirement and examination of all of claims 1-8 and 13-24 (claims 9-12 having been cancelled by Preliminary Amendment filed December 21, 2001) is respectfully requested.

U.S. Application Serial No. 10/027,725
Response dated December 19, 2003
In Response to Official Action dated November 19, 2003

Finally, in response to the Examiner's inquiry, Applicants note that SEQ ID NO: 2, 5, 8 and 11 are directed to the clone 60 and SEQ ID NO: 3, 6, 9 and 12 are directed to the clone 100.

It is believed that this represents a complete response to the restriction requirement.
Examination on the merits is respectfully requested.

Respectfully submitted,



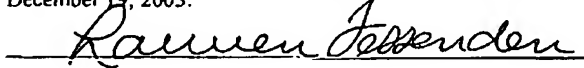
Holly D. Kozlowski
Registration No. 30,468
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8568

971583v1
25401-4

Docket No. 25401-4

CERTIFICATE OF FACSIMILE

I hereby certify that this paper is being transmitted via facsimile to Mail Stop Non-Fee Amendment; Commissioner for Patents; P.O. Box 1450; Alexandria, VA at facsimile number 703-305-3014 on December 19, 2003.



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Sabine Flicker et al : Paper No.:
 Serial No.: 10/027,725 : Group Art Unit: 1644
 Filing Date: December 21, 2001 : Examiner: P.N. Huyuh
 For: Allergen Specific IgE-Fabs and Use Thereof

Mail Stop Non-Fee Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Response to Restriction Requirement in the above identified application.

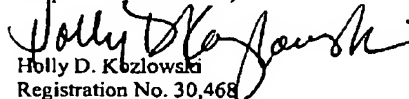
☒ No additional fee is required.
☐ Also attached:

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUS PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	20	20	0	x \$18 =	\$0
Independent Claims	2	3	0	x \$84 =	\$0
TOTAL FEE DUE					\$0

- ☐ A check in the amount of \$0 is enclosed.
- ☐ Please charge my Deposit Account No. ____ in the amount of \$0.
- ☒ The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 04-1133, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,


 Holly D. Kozlowski
 Registration No. 30,468

DINSMORE & SHOHL LLP
 1900 Chemed Center
 255 East Fifth Street
 Cincinnati, Ohio 45202
 (513) 977-8568
 Date: December 19, 2003
 971688v1

**DINSMORE
& SHOHL** LLP**OFFICIAL****FACSIMILE TRANSMITTAL**

December 19, 2003

from **HOLLY D. KOZLOWSKI**

Direct: 513-977-8568 / Fax: 513-977-8141 / holly.kozlowski@dinslaw.com

To: Examiner P. N. Huyuh - GAU 1644
Firm: U.S. Patent & Trademark Office (USPTO)
Fax Number: 703-305-3014
Client Number: 25401-4

RECEIVED
CENTRAL FAX CENTER
DEC 19 2003

Pages: 5
(including cover)

Comments:

If there are any problems in receiving this transmission, please call the fax room at (513) 977-8483 immediately. Thank you.

Notice

This message is intended only for the use of the individuals or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this notice in error, please notify us immediately by telephone and return these papers to us at the address below via first class mail.

Cincinnati • 1900 Chemed Center • 255 East Fifth Street • Cincinnati, OH 45202 • Phone: (513) 977-8200